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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,518	09/12/2002	David I. Bransby	N1365-004	9267

32905 7590 09/07/2004

JONDLE & ASSOCIATES P.C.  
9085 EAST MINERAL CIRCLE  
SUITE 200  
CENTENNIAL, CO 80112

EXAMINER
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ALVO, MARC S

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/089,518	BRANSBY ET AL.	
	Examiner	Art Unit	
	Steve Alvo	1731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 2-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 40-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2-7-03</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

Applicant's election without traverse of claims 1 and 40-48 in the reply filed on June 8, 2004 is acknowledged.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1, 40 and 41 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over ELEVITCH et al.

ELEVITCH et al teaches using planting Nitrogen Fixing Trees (NFT's) for use as fodder, fuel and pulp wood. The species include the genus *Albizia*, the species *mimosa scabrella* (see the Charts on pages 6 and 7; and the Table on page 9) and *mimosa caesalpiniaefolia* (see Chart on page 8). It is noted that most of the species disclosed on page 6 are from the *Mimosoideae* Family. See, page 3, column 1 for harvesting leaves or pods from NFT's and using them for fodder (biomass). See the bottom Table on page 6 for using the Genus "*Alibizia*" from the *Mimosoideae* Family as pulpwood. If necessary, the branches used as fodder on page 3 were obviously harvested as they appear to be cut from the tree and used for animal food.

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Claims 1, 40, 41 and 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over ELEVITCH et al for the reasons set forth above in view of Duke (Handbook of Energy Crops).

If the NFT's of ELEVITCH are not harvested, then harvesting NFT's, e.g. *Albizia falcataria* is taught by DUKE (last paragraph on page 2). Note ELEVITCH teaches that *Alibizia falcataria* is an NFT (page 7, column 2, bottom of the page). DUKE teaches that *Albizia falcataria* could be a pulp source for making paper and teaches that it is easy to chip (mechanical defibration) and yields much pulp with low chemical input. Obviously the *Albizia falcataria* (syn. *Paraserianthes falcataria*) pulp wood of ELEVITCH et al could be mechanically and chemically pulped and then bleached and used to make paper as such is taught by DUKE.

Claims 42-46 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over ELEVITCH et al with or without DUKE as applied to claim 1 above, and further in view of LESKELA et al.

LESKELA et al (see, claim 2 of LESKELA et al) teaches using a mixture of mechanical hardwood and chemical softwood pulp to produce paper. It would have been obvious to use the mimosa pulp of ELEVITCH and/or DUKE with another type of pulp in the manner taught by LESKELA et al. It would have also been obvious to chemically pulp or mechanically pulp the wood of ELEVITCH and/or DUKE as such are conventional pulping methods as taught by LESKELA et al. LESKELA et al further teaches that the pulp can be subjected to a non-chlorine bleaching (column 6, lines 3-4) to further brighten the pulp. It would have been obvious to further brighten the pulp of ELEVITCH et al using the non-chlorine bleaching of LESKELA et al.

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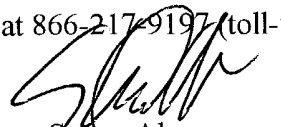
Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over ELEVITCH et al with or without DUKE as applied to claim 1 above, and further in view of SINGH (the Bleaching of Pulp, pages 29-30).

SINGH teaches chlorination can be used to bleach pulp following pulping. It would have been obvious to use chlorine as the bleaching agent of DUKE as such is conventional in the papermaking art as taught by SINGH (page 29, paragraph 2).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Alvo whose telephone number is 571-272-1185. The examiner can normally be reached on 6:00 AM to 2:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steve Alvo  
Primary Examiner  
Art Unit 1731

msa